JCP&L GPU
Daniel V. Gulino
Attorney

Jersey Central Power & Light Company
300 Madison Avenue
Morristown, N.J. 07892
(201) 488-3404

March 31, 1992

Chrys Wilson, Secretary
Board of Regulatory Commissioners
44 South Clinton Avenue
CN 350
Trenton, New Jersey 08625

Re: Application of Jersey Central Power & Light Company for Approval of the Power Purchase Agreement Between Jersey Central Power & Light Company and Freehold Cogeneration Associates, LP.

Dear Ms. Wilson:

Pursuant to the Board's Orders dated October 14, 1981 and December 7, 1983 entered in Docket No. 8010-687, entitled "In the Matter of the Consideration and Determination of Cogeneration and small Power Production Standards Pursuant to the Public Utility Regulatory Policies Act of 1978" ("PURPA"), Jersey Central Power & Light Company ("JCP&L") submits for filing and approval the Power Purchase Agreement, dated March 24, 1992, (the "Agreement") between JCP&L and Freehold Cogeneration Associates, L.P. ("Freehold").

JCP&L respectively requests that the Board review the terms of the Agreement, find and determine that the Agreement is in the public interest and in accordance with the law, and that the costs to be incurred by JCP&L with respect thereto are prudently incurred. In support of this application, JCP&L respectfully states:

I

Freehold is a New Jersey limited partnership whose general partners are Advanced Power Systems, Inc. of St. Charles, Maryland and Constellation Energy, Inc. of Baltimore, an affiliate of Baltimore Gas & Electric Company. Freehold proposes to own, operate and maintain at a site adjacent to the Nestle Beverages Company facility in Freehold, New Jersey, a cogeneration facility having a nameplate capacity of approximately 112 megawatts for the purpose of generating electricity and producing steam[1] for the Nestle facility.

Freehold will own and operate the facility as a PURPA qualifying cogeneration facility ("QF") using natural gas as the primary energy source, but will also have the ability to use a secondary energy source such as oil. Heat will be extracted from the facility and used to produce steam for the adjacent Nestle facility. The Agreement provides that 100 megawatts (92°F) of the capacity and electrical energy of the facility will be sold to and will be under the dispatch control of JCP&L.

---

[1] The Thermal Sales Agreement between the Seller and Nestle contains confidential and proprietary information. At the request of the parties to that agreement, JCP&L is not submitting a copy of the Thermal Sales Agreement with this application. Moreover, upon the request of the Board, the Seller will submit the Thermal Sales Agreement after receipt of a Protective Order from the Board.

II

In its order entitled "Order Regarding Motion for Reconsideration of Denial of Grandfather Status", dated July 31, 1989 (the "Order"), the Board grandfathered the Project from the Stipulation of Settlement (BPU Docket No. 8010-687B) which requires, among other things, that the State's electric utilities competitively bid all non-utility generation capacity. In its Order, the Board directed "that any pricing arrangement that results from further negotiation will be assessed against the current level of JCP&L's forecast of its avoided costs as delineated in its Request for Proposals, which was approval by the Board on May 10, 1989". Accordingly, pursuant to the Board's Order, the total Project payments are equal to JCP&L's 1989 Avoided Costs.

Pursuant to the Agreement, the Variable Energy Payment will be made to Freehold for each kilo-watt hour generated and sold to JCP&L during a scheduled Dispatch Period and associated start-up and shut-down periods. The Variable Energy Rate is established at 2.20¢ per kWH in 1995, and will be escalated 7% per year on each January 1 commencing with January 1, 1996. Based on these dispatch rates, it is expected that the facility will be economically dispatched for about 7000 hours/year. With an average annual availability of 94%, the capacity factor for the facility should be approximately 75%. The Fixed Payment component of the Project pricing will commence on the Commercial Operation Date and will increase on each anniversary of the Commercial Operation Date by a predetermined amount. Freehold will be entitled to receive the full Fixed Payment only if the annual Contract Availability remains at or above 94%. If the Contract Availability falls below 94%, the Fixed Payment is reduced proportionately.

Finally, the term of the Agreement is for twenty (20) years commencing on the Commercial Operation Date, which occurs 48 months after the month in which regulatory approval of the Agreements is obtained. Furthermore, the Agreement also provides for a Suspense Account should the Seller elect to front-end load payments. As provided in the Agreement, Freehold must propose the percentage of and number of years during which Fixed Payments are to be front-end loaded. The Agreement, however, limits the front-end loading duration to twenty years and the front-end loading percentage to 65% consistent with JCP&L's prior power purchase agreements.

III

State utility commissioners are vested with the responsibility of assuring that the jurisdictional utilities act in the public interest in their contractual arrangements. This fundamental tenet of regulatory law has given rise to the question of whether this Board or its successor might at some point in the future try to exercise jurisdiction over this Agreement or refuse to permit JCP&L to flow through to, and/or fully and timely recover from its ratepayers the rates specified in the Agreement over the full term thereof.

Principles of equity dictate that the Board provides both the purchasing utility and the cogenerator with sufficient assurances that the avoided costs contract rate, once approved by the Board will not be subject to further scrutiny. In this regard, FERC has indicated that neither the purchasing utility not the QF are to be deprived of the mutual benefits of entering into a long-term contract based on Board approved avoided cost rates. In order to preserve the benefit of the bargain between the utility and the QF, flow-through of the purchased power costs incurred under this or similar agreements must be assured.

In the instant case, both JCP&L and Freehold need to have the certainty that neither this nor future Boards will impair the utility's right to flow-through to and/or fully and timely recover from its ratepayers the contracted for, and Board-approved, purchase price over the full term of the Agreement or exercise jurisdiction over this or similar agreements.

Based upon the foregoing, JCP&L respectfully requests that the Board:

(1) approve the terms of the Agreement;

(2) find and determine that the Agreement is in the public interest and in accordance with the law; and

(3) find and determine that the costs to be paid by JCP&L under the Agreement are prudently incurred and may appropriately be recovered in rates through the levelized energy adjustment charge or otherwise.

Respectfully Submitted,
JERSEY CENTRAL POWER & LIGHT COMPANY

/s/
Daniel V. Gulino
Its Attorney
300 Madison Avenue
Morristown, New Jersey 07962